



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, Third Floor
New York, New York 10007*

February 9, 2018

By E-Mail

Neil Keith Roman, Esq.
Covington & Burling LLP
620 Eighth Avenue
New York, New York 10018

Re: *Brennan Center for Justice v. U.S. Dep't of State*, 17 Civ. 7520 (PGG)

Dear Mr. Roman:

This letter is in partial response to your Freedom of Information Act ("FOIA") request to the State Department, dated July 20, 2017. Specifically, this letter responds to subpart II.w of the FOIA request, which is at issue in the above-referenced litigation.

The State Department conducted a search for records responsive to the relevant subpart of your request, and identified a total of 45 pages of responsive material. On December 5, 2017, the State Department referred the responsive records to the Department of Homeland Security ("DHS") for direct response to you.

DHS has determined that all of the responsive material will be withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), which applies, among other things, to records protected from disclosure by the presidential communications privilege.

Additionally, after consulting with other Executive Branch agencies that have an interest in the information contained within the responsive records, DHS has determined that portions of the material will also be withheld pursuant to FOIA Exemption 1, 5 U.S.C. § 552(b)(1), which pertains to information that is properly classified in the interest of national security pursuant to Executive Order 13526; Exemption 3, 5 U.S.C. § 552(b)(3), which pertains to information exempted from release by statute; Exemption 5, 5 U.S.C. § 552(b)(5), which pertains to inter- and intra-agency communications protected by the deliberative process privilege; Exemption 6, 5 U.S.C. § 552(b)(6), which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties; Exemption 7(C), 5 U.S.C. § 552(b)(7)(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties; and Exemption 7(E), 5 U.S.C. § 552(b)(7)(E), which pertains to records or information compiled for law enforcement purposes, the release of which would disclose certain techniques or procedures for law enforcement investigations or prosecutions.

In accordance with the Court's order dated January 10, 2018 (ECF No. 30), enclosed is a *Vaughn* index describing the responsive records and identifying the FOIA exemptions that apply to each record.

Please contact me if you have any questions regarding this response.

Sincerely,

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

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Enclosure